

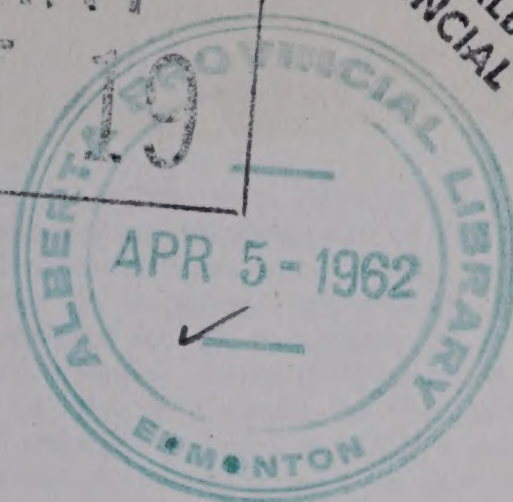
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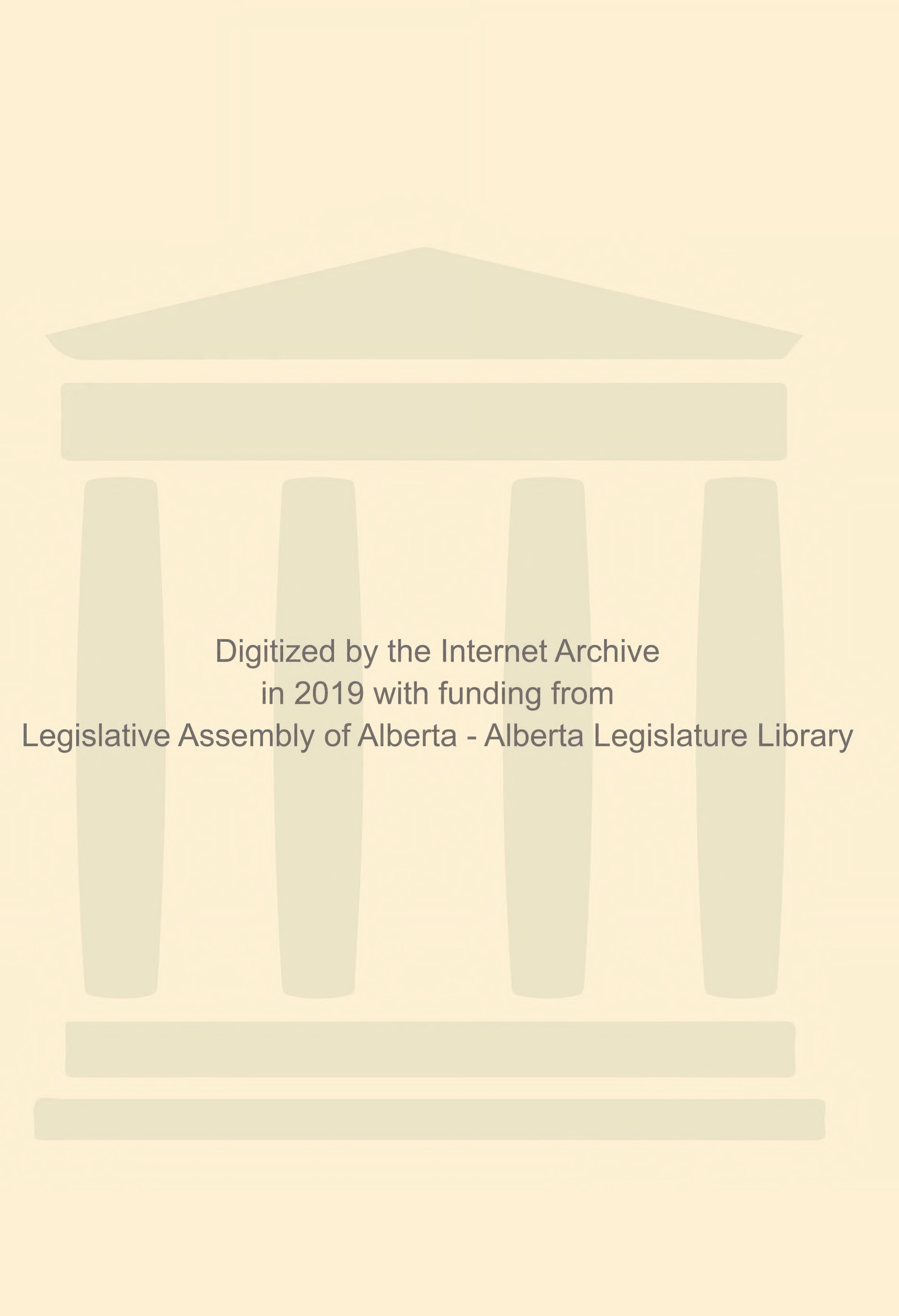
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# **LAWS OF INTEREST TO THE WOMEN OF ALBERTA**

## **Introduction**

This booklet contains a summary of various laws in force in Alberta that may be of particular interest to women. It is not an exhaustive explanation of the law. To set out all the law that could apply in every possible circumstance would require many volumes. Because of this, this booklet can only be a general statement of the nature of certain laws. The law may contain exceptions to, or variations of, these general statements to meet particular situations where there is some difference in the relevant facts. It should therefore be treated only as giving a guide to the general effect of the law and not as giving the correct legal answer to every specific question that may arise, and where an actual problem is involved a lawyer should be consulted rather than relying on this booklet.

## **Background of the Law**

The Province of Alberta was established in 1905 by The Alberta Act, an Act of the Parliament of Canada. The Province was created out of part of the Northwest Territories and was given the laws then in force in the Territories. The Territories, themselves, were established in 1870 by the North-West Territories Act, which provided that the laws to be in force in the Territories were the laws of England as they stood on July 15, 1870,

- (a) in so far as they were applicable to the Territories, and
- (b) in so far as they had not been or were not thereafter repealed, altered or amended by the Parliament of the United Kingdom, the Parliament of Canada or the Legislative Assembly of the North-West Territories.

This power to change the law and make new law is now shared by the Parliament of Canada and the Legislature of Alberta. This power is divided between the two governments by The British North America Act, 1867, and generally speaking neither government can make laws with respect to matters within the jurisdiction of the other. Thus, the Legislature has the right to legislate on such subjects as property and civil rights, municipal government, solemnization of marriage and other matters of a local nature, while Parliament has the right to make laws concerning crime, currency and banking, divorce, bankruptcy, trade and commerce and other matters of country wide importance.

Although both Parliament and the Legislature have passed many statutes dealing with different matters within their respective jurisdictions, they have not completely replaced the adopted laws of England, so that much of our actual law, as well as the history and traditions of our law, dates from before the existence of Alberta and Canada; in some instances hundreds of years before. Many of these old laws have not been changed because there is no real need to change them. The laws are a reflection of the needs and beliefs of the society that made them and if these never change or change very little with the passage of time there is no or little need to change the law. But when any need or belief does change the change is reflected in the law.

The attitude of society toward women has changed greatly, particularly over the last hundred years. After being for many years in an inferior position, women have, largely through their own efforts, brought themselves to the position of being recognized as entitled to equal consideration with men. This change has resulted in many changes in the law. Various rights formerly held only by men are now shared by women. But along with these rights have come various duties and liabilities; certain privileges and protections that were thought appropriate to an inferior sex have been removed from the law. There are, of course, instances where the law does distinguish between the sexes. Some of the more important instances where it is the same and where it differs are set out in this booklet.



## THE FRANCHISE

### Federal Elections (The Canada Election Act)

With certain exceptions every man and woman in Canada is qualified to vote in a federal election if he or she

- (a) is of the full age of twenty-one years,
- (b) is a Canadian citizen or British subject,
- (c) has been ordinarily resident in Canada for the preceding twelve months.

Among those unable to vote are the Chief Electoral Officer, the Assistant Chief Electoral Officer, judges, prison inmates, persons of unsound mind and Indians on reserves (unless they served in the armed forces in World War I. or World War II.). The returning officer for each electoral division cannot vote except to break a tie vote.

An election is commenced by a writ directed to the returning officer who then is responsible for the preparation of a list of electors. To prepare the preliminary list two enumerators are appointed for each urban polling division and one enumerator for each rural polling division. The information obtained by the enumerators is then publicly posted. Any errors or omissions in the preliminary list can be corrected by applying to the revising officer.

Qualified voters who have been omitted from the final list of electors in urban areas may vote if they obtain a certificate from the returning officer. In rural areas a qualified voter omitted from the list of electors may vote upon being vouched for by an elector whose name is on the list and upon taking an oath that he is qualified.

To be eligible as a candidate a person must be qualified to vote. But a person who is guilty of corrupt practice, persons directly or indirectly holding contracts with the government, persons in the employ of the government of Canada and members of provincial government legislatures are not eligible.

### Provincial Elections (The Election Act)

Any Canadian citizen or British subject of the full age of nineteen years who on the day the writ for an election is issued had resided in Alberta for the preceding twelve months and is ordinarily resident in an electoral division may vote in a provincial election.

Those not entitled to vote are judges, mentally incompetent persons, prison inmates, persons convicted of corrupt practices and Indians ordinarily resident on reserves (unless they served in the armed forces in World Wars I. or II.).

The procedure in preparing the list of electors is similar to that in federal elections.

A person qualified to vote but whose name is not on the list of electors in any electoral division other than a city constituency may still vote upon being vouched for by an elector and upon taking an oath. A person in a city constituency whose name is not on a list of electors can only vote if he has previously had his name placed on the Registry of Electors maintained by the Clerk of the Executive Council.

Voting is to be done in secret but where a person is unable to personally mark his or her ballot because of physical incapacity he or she may direct the deputy returning officer to mark the ballot. This is to be done in the presence of the poll clerk and the agents of the candidates and no other persons. A blind person is entitled to take a friend into the polling booth to mark his or her ballot. When



there are ten or more patients in a hospital who are entitled to vote a deputy returning officer may be appointed for that hospital to take a poll of the votes of the patients (The Hospital Voting Act).

Persons who are members of the Senate or House of Commons of Canada or employees of the Government of Canada or the Government of Alberta, are not eligible to be members of the Legislative Assembly of Alberta, nor, with some exceptions are persons who hold contracts with the Government of Alberta. Section 59 of The Legislative Assembly Act states:

"59. Under this Act, women are upon an absolute equality with men, have the same rights and privileges as men, and are subject to the same penalties and disabilities as men."

## **Municipal Elections**

The law relating to municipal elections is contained in the various statutes governing the different types of municipalities: The City Act, The Town and Village Act, The Municipal District Act and The County Act.

The persons qualified to vote in municipal elections are those whose names appear on the assessment roll in respect of land or business liable to taxation and persons who are Canadian citizens of the full age of twenty-one years who meet certain residence requirements.

As in federal and provincial elections a list of voters is prepared. Qualified persons whose names are omitted from the list may vote upon taking an oath that they are qualified.

Only proprietary electors are entitled to vote on by-laws. Generally, a proprietary elector is a person who is entitled to vote in an election and whose name appears on the assessment roll in respect of land liable to taxation.

To be elected mayor or a member of the council a person must be qualified to vote in the election, be a proprietary elector and be able to speak, read and write the English language.

Persons connected with the administration of justice, city employees, and certain persons holding contracts with the municipality are not eligible.

## **School Board Elections (The School Act)**

The persons entitled to vote in the election of school board trustees are:

- (a) in a city or town district, those persons entitled to vote in the municipal elections;
- (b) in a district outside a city or town, any Canadian citizen of the full age of twenty-one years who is the owner or tenant of property liable to assessment for school purposes, and the husband or wife of such person.

## **CITIZENSHIP**

The status of "Canadian citizen" was created in 1947 under the Canadian Citizenship Act.

A person is a natural born Canadian citizen if he or she is born in Canada or on a Canadian ship and if born elsewhere, his or her father, or in the case of a person



born out of wedlock, his or her mother, is a Canadian citizen.

An alien may acquire Canadian citizenship by meeting the following requirements:

- (a) good character;
- (b) adequate knowledge of the responsibilities and privileges of Canadian citizenship;
- (c) adequate knowledge of either English or French;
- (d) five years' residence in Canada.

Under this Act an alien cannot acquire citizenship by marriage to a Canadian citizen. But any woman who prior to 1947 married a man who under the Canadian Citizenship Act would be a Canadian citizen is considered a Canadian citizen.

A woman who marries an alien does not thereby lose her Canadian citizenship.

## **PROPERTY AND CIVIL RIGHTS**

### **The Sex Disqualification Removal Act**

This Act which was passed by the Legislature in 1930 declares that:

"A person shall not be disqualified by sex or marriage from the exercise of any public function, or from being appointed to or holding any civil or judicial office or post, or from entering or assuming or carrying on any civil profession or vocation, or for admission to any incorporated society."

### **The Jury Act**

Juries in Alberta consist of six persons. Juries may be used in both civil and criminal trials, but civil juries are very seldom used. To be eligible as a juror a person must be twenty-one years of age and a Canadian citizen or a natural born British subject. Certain classes of people, such as firemen, policemen, doctors, clergymen and members of the armed forces are exempt from jury service. Women are eligible to sit on juries but no woman can be compelled to serve without her prior consent. In consequence women are not usually called for jury service.

Women also have another privilege in relation to juries. If one of the parties to an action being tried with a jury is a woman she is entitled to have half of the jury composed of women.

Women are not called for jury service in criminal cases where the jury is required to be kept together for the duration of the trial.

### **The Change of Name Act**

At birth a person, if legitimate, inherits the surname of his or her father. Except when it is done for the purpose of fraud, nothing in the law prohibits a person from adopting or assuming any name he or she desires.

Under The Change of Name Act, 1961, a procedure is provided for the registration of a change in name and for the substitution of the new name on official records such as birth and marriage certificates.

An application for a change of name may be made only by a person who is nineteen years of age or older, who is a Canadian citizen, or British subject and who has resided in Alberta for three months preceding the application. A married



woman living with her husband cannot apply to change her surname and a married man can only apply to change his surname with the consent of his wife. The registration of the change in the husband's surname effects a similar change in his wife's and children's surnames. The husband also may, with his wife's consent, apply to change the given name of his wife and children. Where the child is twelve years of age or older, his or her consent is also required.

## Property Holding

A woman has the same rights of obtaining, holding and disposing of property as a man.

Property may be held in the name of one or more persons. Where more than one person has an interest in the same property they may own it as **joint tenants** or as **tenants in common**.

Joint tenancy is most commonly used by married couples in owning their home. Each has an equal interest in the property and it cannot be sold or mortgaged without each owner's consent. On the death of one of the owners his interest immediately and automatically passes to the surviving owner or owners upon the filing with the Land Titles Office of proof of death. It follows from this that an interest in land, as a joint tenant, cannot be disposed of by will. With tenancy in common a person can dispose of his interest by will.

## The Wills Act

Any mentally competent person of twenty-one years of age, or if married nineteen years of age, may make a will. The ordinary form of will is signed at the end by the testator in the presence of two witnesses who must sign in the presence of the testator and each other's presence. The witnesses must not be persons or spouses of persons who will receive anything under the terms of the will. Another form of will, known as a holograph will, is sometimes used. This is a will that is completely in the handwriting of the testator and needs no witnesses.

Great care must be taken in wording a will to ensure that it has the legal effect intended because when the time comes to give effect to it, the testator is not available to explain exactly what he meant and it is too late to make any changes or corrections in it. Because of the many legal problems involved, a will prepared by a person unfamiliar with the details of the laws relating to wills and the transmission of property may be ineffective to dispose of the testator's property. For example, a provision that is of uncertain meaning or that may result in property being tied up for an indefinite period can be invalid. In consequence a will prepared by a person without full knowledge of the relevant laws is not to be recommended.

A will may be revoked at any time, either by making a new will or by destroying the old one. A person's will is automatically revoked upon his or her marriage unless the will specifically states that it is being made in contemplation of that particular marriage. A will may also lose its effectiveness, wholly or partially, by the death of persons named as beneficiaries or by the testator during his lifetime disposing of property which he has devised in the will.

Wills are changed either by making a complete new will or making a codicil which is a document in the form of a will amending the original will.

When a person dies without a will, or leaves property that is not disposed of by a will, The Intestate Succession Act provides how the estate is to be distributed. If a man leaves a widow and children the widow receives one-third and two-thirds is divided equally among the children. If a child is dead but is survived by children of his own then the children receive the share of their parent.

If a man leaves a widow and one child the estate is divided equally and where there are no children the widow receives it all.



When there is no widow or descendants the estate goes to the deceased's nearest kin who are determined in the following order: parents; brothers and sisters, or if dead, their children; grandparents; aunts and uncles; cousins. When no heirs survive the deceased person the estate goes to the University of Alberta under The Ultimate Heirs Act.

## **MATTERS RELATING TO MARRIAGE**

### **The Right to Marry**

In order to enter into a valid marriage each of the parties thereto must meet certain requirements of age, mental capacity and status.

The parties must understand the nature of the contract and fully consent to marry one another. Mere dullness of intellect is not of itself sufficient to incapacitate a person from marrying. The capacity to contract marriage depends upon whether at the time of marriage he or she was capable of understanding the nature of the contract. There must not be a valid subsisting marriage of either of the parties with any other person. Certain marriages between persons who are closely related by blood or marriage are absolutely void for all purposes.

### **The Solemnization of Marriage Act**

Marriages may be solemnized by any duly ordained minister or clergyman, certain officers of the Salvation Army and marriage commissioners appointed by the Lieutenant Governor in Council.

Parties to an intended marriage must take an affidavit stating that to the best of his or her knowledge he or she is not infected with any venereal disease or tuberculosis and must have a blood test for syphilis within fourteen days before the application for a licence or the first publication of banns.

With the exception of a female who is shown to be pregnant no person under the age of sixteen may be married. Persons under the age of eighteen years must have the consent of both father and mother, or such of them as may be living and between the ages of eighteen and twenty-one years the consent of one parent, either father or mother. Where no parent is living the consent of the guardian is necessary.

When no parent or guardian is available or when a person eighteen or older has lived apart from his or her parents or guardian for at least three months without having received financial aid or support from them no consent is required.

When a person under the age of twenty-one years is unable to obtain the consent of his or her parent or guardian a judge of the Supreme Court or district court may in his discretion grant an order dispensing with the consent.

### **The Married Women's Act**

Under the old law a married woman was deemed to be so closely identified with her husband and so much under his control and influence that she could not be held responsible personally for wrongs committed by her and she could not sue personally for wrongs committed against her. While she could own property in her own name the power to dispose of it was in her husband's control. Generally speaking, an unmarried woman had the same rights and liabilities as a man, but when she married the husband assumed both her rights and her liabilities.



Today, the married woman has the same rights and liabilities as the unmarried woman, and The Married Woman's Act states that a married woman

- (a) is capable of acquiring, holding and disposing of any property,
- (b) is capable of making herself and being made liable in respect of a tort, contract, debt or obligation,
- (c) is capable, without her husband being joined as a party, of suing and being sued, either in contract, including a contract made between her and her husband, or in tort or otherwise, and
- (d) is subject to the law relating to bankruptcy and to the enforcement of judgments,

in all respects as if she were an unmarried woman.

### **Right of Wife to Pledge Husband's Credit**

A wife while living with her husband has an implied power to pledge his credit for necessities for herself and for the needs of the household. The extent of this power varies with the standard of living of the couple.

This right exists unless the husband can show that she has not his authority. He may do this by showing that he has told tradespeople not to give her credit, that he has forbidden her to pledge his credit or that she has a substantial allowance on the understanding that she will not pledge his credit. If the husband has held his wife out as his agent he cannot afterward deny the agency though he may terminate it.

If a wife has been deserted by her husband or has had to leave him because of cruelty or other reasonable cause she becomes what is known as an agent of necessity. This means that unless he is paying her an allowance she can pledge his credit for necessities. This kind of agency cannot be ended by forbidding her to pledge his credit or by telling tradespeople not to give her credit. It may be terminated by misconduct on her part. If a wife leaves her husband without good cause she has no right to use his credit.

### **The Dower Act**

Dower rights are the rights given by The Dower Act to the spouse of a married person in respect of certain land and personal property of the married person. A wife has a dower right in her husband's property and a husband has a dower right in his wife's property. Under this Act a married person cannot dispose of what is known as the homestead without the consent of his or her spouse and after death his or her spouse is entitled to the use of that property for the rest of his or her life.

"Homestead" means a parcel of land on which a dwelling occupied by the owner as a residence is situated. In a city, town or village, it can consist of not more than four adjoining lots and outside a city, town or village, of not more than a quarter section of land. As it is possible for a couple to own and reside in more than one dwelling during the course of their marriage it is possible for them to have more than one homestead at the same time. In such case the surviving spouse must decide which one he or she wishes the use of.

An order of a judge may be obtained dispensing with the consent of the spouse to the disposition of a homestead by a married person when:

1. the married person and the spouse are living apart;
2. the whereabouts of the spouse is unknown;
3. the spouse is mentally incompetent or of unsound mind;
4. the married person has two or more homesteads.



If the judge thinks it proper to dispense with a spouse's consent he may in the proper case order the payment of a certain sum for the benefit of the wife.

If the husband disposes of a homestead without obtaining the required consent the wife may sue the husband for half the value or half of the selling price of the property, whichever is greater.

### **The Family Relief Act**

It is possible either under the terms of his will or where there is no will, under The Intestate Succession Act that a deceased person's family is not adequately provided for. In such cases the courts have power under The Family Relief Act to see that adequate provision is made out of the deceased's estate to provide proper maintenance and support for his dependants.

Dependants include the widow, children under nineteen years of age and children over nineteen who by reason of mental or physical disability are unable to earn a livelihood.

### **Presumption of Death**

An order presuming a spouse dead may be granted when the spouse has been continually absent for a period of seven years and no evidence can be produced indicating that the spouse is still alive. This order entitles the remaining spouse to obtain a marriage licence and remarry but it does not dissolve the first marriage. Should the person presumed dead be shown to be alive at the time of the subsequent marriage the marriage is void. It does, however, protect the person who has remarried from a charge of bigamy.

### **The Domestic Relations Act**

#### **JUDICIAL SEPARATION:**

A husband or wife may petition for a decree of judicial separation on the grounds of adultery, cruelty, desertion for two years or more without reasonable cause, or failure to comply with an order for restitution of conjugal rights. "Cruelty" includes any conduct that is grossly insulting and intolerable or of such a character that the person seeking the separation could not reasonably be expected to be willing to live with the other after he or she has been guilty of such conduct.

#### **ALIMONY AND MAINTENANCE:**

When a wife is entitled to maintain an action for judicial separation she may, with that action, or separately, sue for alimony. As long as the husband pays the sum ordered, no matter how small, the wife is not entitled to pledge his credit for necessities. A change in the order may be made upon a change in the circumstances of the parties. The foregoing actions are conducted in the Supreme Court of Alberta.

#### **PROTECTION ORDERS:**

In addition to the foregoing, an alternative procedure is provided whereby a deserted wife may apply to a magistrate who may make an order requiring the husband to pay up to \$40 a week for the maintenance of his wife and family. If the magistrate decides that the wife was not deserted by the husband and not entitled to aid he may make an order restricted to the maintenance of the children. A divorced woman may also apply under this procedure for an order for maintenance restricted to the children.

### **The Alimony Orders Enforcement Act**

This Act provides a means for the enforcement of alimony, maintenance and



affiliated orders. The person against whom the order is made may be called before a judge and examined as to his means and ability to comply with the order. The judge may commit the person to gaol for a period of up to one year

- (a) if he fails to appear for the examination, or
- (b) if he fails to give satisfactory answers to the questions asked, or
- (c) if he has disposed of any property with the intent of avoiding compliance with the order, or
- (d) if he has refused to comply with the order when he has sufficient means or ability or resources with which to comply.

### **The Reciprocal Enforcement of Maintenance Orders Act**

In most cases where an alimony or maintenance order is made, both the husband and wife reside in Alberta. There are cases where the husband has left the Province and is therefore outside the jurisdiction of the Alberta courts. Even though the wife has obtained an alimony or maintenance order in Alberta it is of no effect in the province or country where the husband resides and it is necessary for the wife to take proceedings for an order against him in the province or country where he resides. The same is true where the wife is in another province and the husband has come to Alberta.

The Reciprocal Enforcement of Maintenance Orders Act is designed to meet this problem. Under this Act, arrangements are made with other provinces and countries (called reciprocating states) whereby alimony and maintenance orders made by Alberta courts may be registered with the courts of the reciprocating states. In return the orders of the courts of reciprocating states can be registered in the Alberta courts. The registered order can then be enforced as if it were an order of the court where it is registered.

### **Divorce**

In Alberta, as in most of Canada, a divorce may be obtained on the grounds of adultery. Even though one of the parties to a marriage has committed adultery, the court will not grant a divorce if the innocent party has condoned or forgiven the adultery or has colluded with the guilty party in bringing the action. The court may also refuse the divorce if there has been too great a delay in bringing the action or if the person suing for divorce is shown to have committed adultery also.

Upon being satisfied that it is a proper case for divorce the court grants a decree nisi. At this time the court also decides such matters as custody of the children, if any, and alimony. There is then a waiting period of three months, after which, if no reason is shown why it should not, the court grants a decree absolute. After the decree absolute the parties are free to marry again. Even though the usual court procedure has been followed a divorce will not be valid if the court did not have jurisdiction to grant that divorce. The only court that has jurisdiction to grant a divorce is the court having jurisdiction in the domicile of the husband. With one or two exceptions a divorce granted in a place other than the domicile of the husband is not generally recognized as valid.

## **WELFARE OF CHILDREN**

### **The Child Welfare Act**

#### **NEGLECTED CHILDREN:**

A "neglected child" is quite extensively defined in The Child Welfare Act. Very briefly, it means a child whose physical, educational, social or moral well-being is endangered by the failure, unfitness, or inability of the parents.



Every municipality is authorized to appoint child welfare workers who may apprehend any child that they reasonably believe is neglected. After the case is thoroughly investigated a juvenile court judge holds a hearing and if he finds the child to be neglected he may permit the parents to retain custody of the child on suitable conditions or he may order that the child be permanently or temporarily committed to the care and custody of the Superintendent of Child Welfare, and the child thereupon becomes a ward of the government.

#### ADOPTION OF CHILDREN:

An adopted order has the effect of divesting the natural parents of all legal rights in the child and frees them from all obligations. These rights and duties are imposed on the adopter or adopters and for practically all purposes the child is considered the natural and lawful child of the adopters.

Adoption proceedings are commenced by application to the Child Welfare Commission. Any adult person is entitled to apply.

After investigating the case the Commission refers the application to a judge who upon being satisfied of the suitability of the proposed adopter and that the adoption is in the best interests of the child may grant the order.

An adoption order is not usually granted until after the child has lived with the proposed adopter for one year though this period may be dispensed with.

#### CHILDREN OF UNMARRIED PARENTS:

The father of a child born out of wedlock may be held responsible for the maintenance and care, medical and otherwise, of the mother of the child for three months preceding the birth and until such time after the birth as is necessary. He may also be required to pay a periodic sum toward the maintenance and education of the child until it reaches sixteen years of age.

The mother of a child born out of wedlock, or the guardian of the child or the Superintendent of Child Welfare may lay a complaint against the man alleged to be the father and upon sufficient evidence being produced a paternity order will be made against him. The order sets out the payments to be made by the father which may be varied from time to time as the circumstances require.

#### **The Legitimacy Act**

If the parents of a child born out of wedlock subsequently marry the child is considered for all purposes of the law to be legitimate from the time of birth.

Where a person whose spouse is presumed dead enters into another marriage that would have been valid if the spouse were in fact dead, any children of the subsequent marriage are considered to be legitimate even though the subsequent marriage turns out to be invalid because the spouse presumed dead was not dead.

Children are also considered legitimate for the purposes of the law where a marriage is annulled.

#### **The Juvenile Delinquents Act**

Under this Act of the Parliament of Canada youthful lawbreakers may be treated not as criminals to be punished but as delinquents requiring help and guidance and proper supervision.

A juvenile delinquent is a boy under sixteen or a girl under eighteen who violates any provision of the Criminal Code or any other dominion or provincial statute or who is guilty of sexual immorality or any similar form of vice. It is also an offence



under this Act for any person, including the parents of the juvenile, to aid, cause, promote or contribute to the commission of a delinquency.

Under the procedure provided by this Act, the parents of the juvenile must be notified and the trial may be held without publicity in a more informal manner than the usual strict court procedures.

## **LABOUR WELFARE**

Under The Alberta Labour Act provision is made for regulating hours of work, minimum wages and labour welfare generally. With certain exceptions, the maximum work week is fixed at forty-eight hours. The Board of Industrial Relations which is established by this Act has power to fix different minimum wage rates for different industries and different types of employment. Section 109 of the Act provides that no employer may employ a female employee for any work at a rate of pay that is less than the rate of pay at which male employees are employed by that employer for identical or substantially identical work.

The Board of Industrial Relations is also empowered to make safety regulations for factories regarding clothing of workers, fixing the maximum weight that any female employee may be permitted to lift or carry and controlling the hours of work of pregnant women.

Section 15 of The Alberta Labour Act provides for control over the employment of children. No child under fifteen may be employed

- (a) in any factory, shop or office building, or
- (b) in any other type of employment without the approval of the parents and the Board.

The Lieutenant Governor in Council may make exceptions to the foregoing with respect to specific occupations. The employment of children under nineteen in any type of work that may be injurious to life, limb, health, education or morals may also be prohibited.

## **CRIMINAL OFFENCES**

The criminal law is set out in the Criminal Code, an Act of the Parliament of Canada. Most of its provisions apply equally to men and women but there are certain offences that are related specifically to women.

### **Rape and Related Offences**

Everyone who commits rape is liable to imprisonment for life and to be whipped. A man commits rape when he has sexual intercourse with a woman not his wife without her consent or with her consent when the consent is extorted by fear of bodily harm or obtained by misrepresentation of the nature and quality of the act.

Sexual intercourse with a female under the age of fourteen years is punishable in the same manner. The fact that the female consented is not a defence to this charge. It is also a criminal offence to seduce a female under the age of eighteen and of previously chaste character.

### **Infanticide**

A woman who by wilful act or omission causes the death of her newly born child is guilty of an offence. If her mind is disturbed as a result of giving birth to



the child the offence may be infanticide which is punishable by a maximum of five years imprisonment. But if her mental condition is normal she would be guilty of murder, the penalty for which is death.

### **Abortion**

Any person who with intent to procure the miscarriage of a female uses any means to carry out that purpose is liable to life imprisonment whether or not the female was in fact pregnant. Any pregnant female who attempts to procure her own miscarriage is liable to a maximum of two years' imprisonment. Any person who knowingly supplies or advertises anything intended to be used to procure a miscarriage is guilty of an offence.

It is an offence to cause the death of an unborn child unless the person acted in good faith under the belief that it was necessary to preserve the life of the mother.

### **Bigamy**

Bigamy is a criminal offence and is punishable by imprisonment for five years. The offence is committed when a person being married, goes through a form of marriage with another person and when a person knowing another person to be married goes through a form of marriage with that person. If the first marriage has been declared void by a court, or a divorce decree has been granted, or the spouse has been presumed dead or the person in good faith and on reasonable grounds believes the spouse is dead then it is not a punishable offence.







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